



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,727	03/30/2004	Armin Breitenmoser	DT-6777	4812

30377 7590 03/22/2005

DAVID TOREN, ESQ.  
SIDLEY, AUSTIN, BROWN & WOOD, LLP  
787 SEVENTH AVENUE  
NEW YORK, NY 10019-6018

EXAMINER

TRUONG, THANH K

ART UNIT PAPER NUMBER

3721

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/812,727	<b>Applicant(s)</b> BREITENMOSER, ARMIN <i>ED</i>	
	<b>Examiner</b> Thanh K Truong	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2004.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3 and 5-8 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 2,3 and 5-8 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:  
         1. ☒ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is in response to applicant's amendment received on December 29, 2004.
2. Applicant's cancellation of claims 1 & 4 is acknowledged.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 2, 3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Tolbert et al. (4,592,144).

Tolbert discloses an apparatus comprising: a housing (14) having a switch recess (48) formed therein, and an actuation member (44) displaceably arranged in the switching recess for shifting a functional unit between different functional steps (locked and unlocked – column 1, lines 63-65); and functional step display means including a read-out device (49) having a plurality of marks for identifying respective functional steps, means for mechanically connecting the read-out device with the actuation member and carrying the identifying marks, and display means (display means 49) display the functional marks and located below recess 48, thus spaced from the recess) provided in the housing for displaying the identifying marks and spaced from the switching recess, the mechanically connecting means having a plurality of different

Art Unit: 3721

positions corresponding to the different functional steps (locked and unlocked), and the display means displaying only one identifying mark, which corresponds to an actual functional step, in each position of the mechanically connecting means (as shown in figures 1-3, only one identifying mark is displayed in each position – locked and unlocked).

Tolbert further discloses: the display means is formed by a recess (at each functional step, right and left of the actuation member 44, the display means is formed by the recess defined by the portion of the recess 48 and the actuation member 44) provided in the housing, and wherein both the switching recess and the display means recess are formed in the upper surface of the housing (in this case the display means recess is formed within the switching recess 48, and only one display recess is existing at a time); the mechanically connecting means comprises a slide member (49) formed, together with the actuation member (44), as a one-piece element; the actuation member is provided on the slide member.

5. Claims 3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujimura (4,581,822).

Fujimura discloses an apparatus comprising: a housing (1) having a switch recess (the space that accommodating the sliding member 24 including the recess on the side of the device where the member K located – figures 2 and 13) formed therein, and an actuation member (K) displaceably arranged in the switching recess for shifting a functional unit between different functional steps (CUT, OFF, COMB-CUT ... – figure

Art Unit: 3721

4); and functional step display means including a read-out device (25) having a plurality of marks for identifying respective functional steps, means for mechanically connecting the read-out device with the actuation member and carrying the identifying marks, and display means (31) provided in the housing for displaying the identifying marks and spaced from the switching recess (figure 3), the mechanically connecting means having a plurality of different positions corresponding to the different functional steps, and the display means displaying only one identifying mark (figure 3), which corresponds to an actual functional step, in each position of the mechanically connecting means.

Fujimura further discloses: the mechanically connecting means comprises a slide member (24, 25) formed, together with the actuation member (K4), as a one-piece element; the actuation member is provided on the slide member (figure 14); the actuation member (K) is provided on the slide member (24); the marks are arranged on the slide in a row, one after another, and the slide is displaceable in a region of the display means; and the slide member has at least one locking member (P, P' – figures 24, 25) engageable in respective matching locking means (g, g' – figures 24, 25) provided on the housing at least in two positions of the slide member relative to the housing.

### ***Response to Arguments***

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (571) 272-4472. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tkt

March 4, 2005.

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal line extending to the right.

Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700